

JS 44 (Rev. 06/17)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<b>I. (a) PLAINTIFFS</b> MIRIAM NARAMORE, Administrator of the Estate of DONALD NARAMORE, deceased	<b>DEFENDANTS</b> DAIMLER TRUCKS NORTH AMERICA, LLC
<b>(b)</b> County of Residence of First Listed Plaintiff _____ (EXCEPT IN U.S. PLAINTIFF CASES)	County of Residence of First Listed Defendant _____ (IN U.S. PLAINTIFF CASES ONLY)
<b>(c)</b> Attorneys (Firm Name, Address, and Telephone Number) Benjamin E. Baker, Jr. Beasley Allen Crow Methvin Portis & Miles 218 Commerce Street, Montgomery AL 36103-4160	NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.  Attorneys (If Known)

<b>II. BASIS OF JURISDICTION</b> (Place an "X" in One Box Only)	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (Place an "X" in One Box for Plaintiff and One Box for Defendant)																								
<input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 2 U.S. Government Defendant <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)	<table style="width: 100%;"> <tr> <th></th> <th>PTF</th> <th>DEF</th> <th></th> <th>PTF</th> <th>DEF</th> </tr> <tr> <td>Citizen of This State</td> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input checked="" type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input checked="" type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input checked="" type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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IV. NATURE OF SUIT (Place an "X" in One Box Only)				Click here for: Nature of Suit Code Descriptions.	
<b>CONTRACT</b> <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>TORTS</b> <b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input checked="" type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<b>FORFEITURE/PENALTY</b> <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<b>BANKRUPTCY</b> <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157	<b>OTHER STATUTES</b> <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<b>PROPER RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark	<b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))
			<b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

<b>V. ORIGIN</b> (Place an "X" in One Box Only)							
<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from Another District (specify)	<input type="checkbox"/> 6 Multidistrict Litigation - Transfer	<input type="checkbox"/> 8 Multidistrict Litigation - Direct File	

<b>VI. CAUSE OF ACTION</b>	Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): <b>28 USC § 1332</b> Brief description of cause: <b>Motor vehicle accident / wrongful death</b>
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<b>VII. REQUESTED IN COMPLAINT:</b>	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.	<b>DEMAND \$</b>	CHECK YES only if demanded in complaint: <b>JURY DEMAND:</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
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<b>VIII. RELATED CASE(S) IF ANY</b>	(See instructions): JUDGE _____ DOCKET NUMBER _____
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DATE <b>08/17/2018</b>	SIGNATURE OF ATTORNEY OF RECORD 
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FOR OFFICE USE ONLY	RECEIPT # _____	AMOUNT _____	APPLYING IFP _____	JUDGE _____	MAG. JUDGE _____
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for the

$$\begin{array}{c} ) \\ ) \\ ) \\ ) \\ ) \\ ) \\ ) \\ ) \\ ) \\ ) \\ ) \\ ) \end{array}$$

V.

Defendant(s)

Signature of Clerk or Deputy Clerk

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
 was received by me on *(date)* \_\_\_\_\_ .

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
 \_\_\_\_\_ , a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_ , and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_ , who is  
 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

☐ I returned the summons unexecuted because \_\_\_\_\_ ; or

☐ Other *(specify)*: \_\_\_\_\_ .

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_ .

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:



Georgia and was actually doing business in the State of Georgia at all times relevant to this lawsuit. Daimler's registered agent of service in Georgia is C.T. Corporation located at 289 S. Culver Street, Lawrenceville, GA 30046-4805.

3. This Court has subject matter jurisdiction over the action pursuant to 28 U.S.C. § 1332 in that complete diversity exists between the parties of this action and the matter in controversy exceeds the sum of \$75,000.00.

4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(1), (b)(2), (c)(2) and (d). The cause of action for this case arose in this Court's judicial district/division. Daimler does continuous and systematic business in this judicial district such that it is subject to this Court's personal jurisdiction including but not, vehicle sales and service, parts sales and correspondence and recall notices to dealers and consumers within the district.

### **The Product**

5. The product involved in this action is a 2000 Freightliner truck, VIN # 1FUYTWDB9YHF44899.

### **Statement of the Facts**

6. On October 17, 2017, Donald Naramore was operating a 2000 Freightliner heavy duty tractor and trailer combination along S.R. 370 in Early County, Georgia, near mile marker 5.

7. While operating the 2000 Freightliner, the truck left the pavement and rolled over. At the time of the wreck, Mr. Naramore was a properly-belted passenger.

8. The 2000 Freightliner truck was designed, engineered, manufactured and marketed by Freightliner, currently a division of Daimler and/or the predecessor to Freightliner LLC. The truck, particularly the roof and cab structure, were in substantially the same condition as when originally sold.

9. As a direct and proximate result of the defective condition of the cab of the 2000 Freightliner truck made the basis of this suit, as well as the negligent, willful and wanton conduct of the Defendant, Mr. Naramore suffered injuries that resulted in his death.

10. The subject truck cab was at the time of the accident in substantially the same design and condition as it was when it was originally manufactured, sold and placed into the stream of commerce.

### **COUNT I**

#### **(Strict Liability / Design Defect)**

11. Plaintiff incorporates as if realleged fully herein paragraphs 1 – 10 above.

12. Daimler through its Freightliner division, designed, selected, inspected, tested, manufactured, assembled, equipped, marketed, distributed and sold the truck cab made the basis of this action.

13. The subject truck cab was defectively designed and unreasonably dangerous because the truck cab is not suitable for its intended purpose and did not provide adequate crashworthiness safety for occupants in the event of a foreseeable rollover event. The risk of injury and death to truck occupants in a foreseeable rollover outweigh the utility of the Defendant's chosen design. In

fact, Defendant was aware of the existence of reasonably available and safer designs and design processes to insure adequate crashworthiness of its cabs at the time the subject truck cab was produced.

14. Prior to the manufacture of the subject cab, Freightliner had participated in a multi-year heavy truck crashworthiness study with other heavy truck manufacturers that had determined cab strength for roll over safety needed to be increased by 240% to provide adequate protection to occupants in rollover events.

15. The subject Freightliner truck cab was defectively designed in at least the following ways at the time it was sold, for which Daimler is strictly liable:

- a. Daimler/Freightliner failed to incorporate by design, technologically and economically available safer designs that would provide adequate crashworthiness and protect occupants in the event of a foreseeable rollover event;
- b. Daimler/Freightliner failed to adequately warn the decedent, other consumers, or the public in general about the unsafe and defective condition and design of the truck cab known to Daimler, such that individuals like the decedent could make informed and prudent decisions regarding traveling or riding in such truck cab;

- c. Daimler/Freightliner failed to implement safe, technologically feasible, and economically practical alternative designs, which would have mitigated or cured the design defects noted above;
- d. Daimler/Freightliner failed to hold paramount the safety, health, and welfare of the public when designing the truck made the basis of this suit;
- e. Daimler/Freightliner failed to eliminate through design hazards that it recognized to be associated with the use of its products;
- f. Daimler/Freightliner failed to protect, guard or warn consumers against hazards it recognized to be associated with the use of its products; and
- g. Daimler/Freightliner failed to complete an adequate risk/hazard analysis of potential harm to consumers when the subject truck cab experienced a rollover event.

16. As a direct and proximate result of the design defects in the subject Freightliner truck cab, Donald Naramore, deceased, suffered fatal injuries and damages for the loss of life in the 2000 Freightliner truck cab during the rollover accident.

### **COUNT TWO**

#### **(Negligence and/or Wantonness of Defendant)**

17. Plaintiff incorporates as if re-alleged fully herein paragraphs 1-15 above.



18. Daimler/Freightliner owed a duty of care to the decedent and the consumer public in general to design and sell a reasonably safe truck cab and to warn about dangers in the model truck that Daimler Freightliner was aware of and/or subsequently became aware of.

19. Daimler/Freightliner had a duty to hold paramount the safety, health, and welfare of the public in designing the truck cab made the basis of this suit.

20. Daimler/Freightliner had a duty to eliminate, through design, hazards it recognized to be associated with the use of the truck cab made the basis of this suit.

21. Daimler/Freightliner had a duty to protect or guard consumers against hazards it recognized to be associated with the use of its products if it was able to eliminate the hazard through design.

22. Daimler/Freightliner had a duty to warn consumers of hazards recognized to be associated with the use of its product before and after introduction of the truck cab to the public if such recognized hazards could not be designed out or guarded against.

23. Daimler/Freightliner breached its duty of care in one or more of the following respects:

- a. Daimler/Freightliner negligently and/or wantonly failed to design the subject truck cab to be reasonably safe during a foreseeable rollover event;

- b. Daimler/Freightliner negligently and/or wantonly failed to adequately warn the decedent, other consumers, or the public in general about the unsafe and defective condition and design of the truck cab known to Daimler/Freightliner or which Daimler/Freightliner subsequently learned of, such that individuals like the decedent could make informed and prudent decisions regarding traveling or riding in such trucks; more specifically, but not limited to, Daimler/Freightliner failed to warn the decedent that the subject truck cab would not provide adequate protection or crashworthiness during a foreseeable rollover event;
- e. Daimler/Freightliner negligently and/or wantonly failed to implement safe, technologically feasible, and economically practical alternative designs and processes which would have mitigated or cured the defective conditions of the truck cab; and
- f. Daimler/Freightliner negligently and/or wantonly failed to complete an adequate hazard analysis and risk assessment for potential harm to consumers when the truck cab made the basis of this suit was designed, sold and/or manufactured without technologically and economically feasible alternative designs.

24. Daimler/Freightliner acted with such willful, wanton, and reckless indifference, demonstrating an entire want of care for the safety and well-being of victims like Donald Naramore and others so as to evidence a conscious indifference to the consequences of its acts in designing and/or manufacturing the subject truck cab.

25. As a direct and proximate result of Daimler's negligence and/or wantonness, Donald Naramore, deceased, suffered fatal injuries and damages for loss of life in the 2000 Freightliner truck cab during the rollover accident.

**COUNT THREE**  
**(Wrongful Death)**

26. Plaintiff incorporates as if re-alleged fully herein paragraphs 1-23 above.

27. At the time of his death, Donald Naramore was 67 years old. Plaintiff, Miriam Naramore, brings this action as wife of the deceased for the full value of the life of Donald Naramore.

**COUNT FOUR**  
**(Injuries and Damages)**

28. Plaintiff incorporates as if re-alleged fully herein paragraphs 1-25 above.

29. Miriam Naramore, as Administrator of the Estate of Donald Naramore, deceased, has standing to recover for the wrongful death of the deceased.

30. As a direct and proximate result of the negligence and misconduct of Defendant, as well as the unsafe and unreasonably dangerous Freightliner truck cab, Donald Naramore was killed, and Miriam Naramore, as Administrator,

is entitled to recover from the Defendant damages for pain and suffering of the deceased.

**COUNT FIVE**  
**(Punitive Damages)**

31. Plaintiff incorporates as if re-alleged fully herein paragraphs 1-28 above.

32. Daimler/Freightliner was aware long before this incident occurred that its product, would be used by drivers over the roads and highways.

33. Daimler/Freightliner was aware long before this incident occurred that the subject model Freightliner truck cab was defective and dangerous in the event of a foreseeable rollover event. Despite its knowledge, Daimler/Freightliner did nothing to remedy or mitigate such problems and defects so that innocent victims like Donald Naramore would not be injured or killed even after leaving that cab strength needed to be increased by 240%.

34. Despite its knowledge of the dangerous defects in the Freightliner truck cab, Daimler/Freightliner did nothing to warn its customers of the problems so as to afford innocent victims like Donald Naramore needed information to avoid being injured or killed.

35. As a result of the Daimler's callous, wanton, or reckless indifference to the safety and well-being of the consumer public, users and occupants of the Freightliner truck cab, numerous victims have been injured, maimed, or killed in Freightliner truck cab rollover accidents over time, and people continue to be injured, maimed and killed in such incidents even today.

36. There is clear and convincing evidence that Daimler/Freightliner acted with such willful, wanton, and reckless indifference, demonstrating an entire want of care for the safety and well-being of victims like Donald Naramore and others so as to evidence a conscious indifference to the consequences of its acts and thereby demand an award of punitive damages against Daimler, pursuant to O.C.G.A. §51-12-5.1, that will punish it for the harm it has caused and that will deter it from similar future misconduct.

**PRAYER FOR RELIEF**

37. Plaintiff incorporates as if re-alleged paragraphs 1-34 above.

38. Plaintiff, Miriam Naramore, as Administrator of the Estate of Donald Naramore, deceased, seeks to recover all special and general damages from the Defendant to the full extent allowable under Georgia law, including damages for pain, suffering, fright, mental anguish, funeral expenses and any medical expenses incurred.

39. The Plaintiff, Miriam Naramore, as Administrator of the Estate of Donald Naramore, deceased, seeks to recover punitive damages from the Defendant for its willful and wanton conduct, in an amount sufficient to punish Defendant for what it has done to the decedent, and to deter it from continuing to cause harm to others.

40. The Plaintiff, Miriam Naramore, as Administrator of the Estate of Donald Naramore, deceased, demands damages in an amount equal to the full value of Donald Naramore's life as provided under Georgia law.

**JURY DEMAND**

**Plaintiff hereby demands trial by jury on all issues of this cause.**

- a. That the Plaintiff have a trial by jury;
- b. That all costs be taxed against the Defendant;
- c. For such other and further relief as is just and appropriate.

PLAINTIFF DEMANDS A TRIAL BY STRUCK JURY

/s/ Benjamin E. Baker, Jr.  
BENJAMIN E. BAKER, JR.  
Georgia Bar No. 032926

Attorney for Plaintiff

OF COUNSEL:

**BEASLEY, ALLEN, CROW,  
METHVIN, PORTIS & MILES, P. C.**  
Post Office Box 4160  
Montgomery, Alabama 36103-4160  
(334) 269-2343

**SERVE DEFENDANT AS FOLLOWS:**

Daimler Trucks North America, LLC  
c/o CT CORPORATION SYSTEM  
289 S. Culver Street  
Lawrenceville, GA 30046-4805

(Registered Agent)